



## TOWN OF NEW WINDSOR

### ZONING BOARD OF APPEALS

#### Regular Session

Date: JANUARY 27, 2003

#### AGENDA:

7:30 p.m. – Roll Call

Motion to accept minutes of JANUARY 13, 2003 meeting as written.

#### PRELIMINARY MEETINGS:

1. RT. 32 .W. REALTY, LLC (Arby's) (#03-01) – Request for

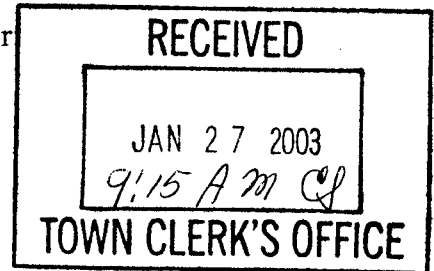
##### FREESTANDING SIGN:

Request for 145 sq. ft for freestanding sign

##### TWO WALL SIGNS:

Sign #1 - Request for 6 inch height for wall sign

Sign #2 - Request for additional 3 ft X 7 ft. wall sign



All in (C) Zone or Rt. 32 (35-1-102.1)

2. ANTHONY FAYO (Perkovic) (#03-02)– Request for 25' Minimum Lot Width to construct a single-family home in an (R-1) zone on Bull Road (56-1-9)
3. FIDANZA, FRANCO (PLANET WINGS) (#03-03) –Request for 146 sq. ft. and 3' Height for freestanding sign; Request for 3.5 ft X 12 ft for wall signs in a (C) zone on Windsor Highway (45-1-40.21)
4. JOHN BENICHIASA (#03-04) –Request for Use Variance to operate an existing machine shop in an R-4 Zone on Garden Drive (47-1-58)

#### FORMAL DECISIONS:

1. NEUMANN, PAUL
2. POST, WILLIAM
3. MODH, PARESH
4. CUBITO, ROSEANN
5. YARUS, ANN
6. HARDEN, GREGORY
7. CHIN, NEA
8. ACCETTURA, JOSEPH

Myra (845) 563-4615

January 27, 2003

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TOWN OF NEW WINDSOR  
ZONING BOARD OF APPEALS

JANUARY 27, 2003

MEMBERS PRESENT: LAWRENCE TORLEY, CHAIRMAN  
LEN MCDONALD  
MICHAEL REIS  
STEPHEN RIVERA

ALSO PRESENT: MICHAEL BABCOCK  
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.  
ZONING BOARD ATTORNEY

MYRA MASON  
ZONING BOARD SECRETARY

ABSENT: MICHAEL KANE

REGULAR MEETING

MR. TORLEY: I'd like to call to order the January 27,  
2003 Zoning Board of Appeals meeting.

APPROVAL OF MINUTES OF JANUARY 13, 2003

MR. TORLEY: Motion to accept the minutes as written?

MR. RIVERA: So moved.

MR. REIS: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MC DONALD	AYE

January 27, 2003

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MR. REIS	AYE
MR. TORLEY	AYE

REORGANIZATION

MR. TORLEY: We're going to delay our reorganization meeting till the next session, come hell or high water, as long as we have a quorum, we're going to do it then.

PRELIMINARY MEETING:

ROUTE 32 N. W. REALTY, LLC (ARBY'S) (03-01)

MR. TORLEY: Request for 145 sq. ft. for freestanding sign, two wall signs, sign #1, request for 6 inch height for wall sign, sign #2, request for additional 3 ft. x 7 ft. wall sign.

(Whereupon, Mr. Krieger entered the room.)

Mr. Gregory Shaw of Shaw Engineering appeared before the board for this proposal.

MR. SHAW: For the record, my name is Greg Shaw and I'm representing Route 32 N.W. Realty, LLC, also known as Headlee Management. Within the past couple weeks, we have gotten site plan approval from the New Windsor Planning Board for a new Arby's Restaurant which is located on Windsor Highway immediately north of the Kentucky Fried Chicken site. What the applicant is proposing is signage which is in excess of that which is permitted by the zoning ordinance. If I may speak to the facade signs first, again, your ordinance allows one sign per business, we're asking, let me back up, maybe the best way to do it is in the order of the rejection from your building inspector. We're requesting variance number one, which is signage for the side of the building. If you just turn to the second page of your handout, we're asking for signage which is 30 inches high, excuse me, 36 inches high. Your zoning ordinance allows signage of only 30 inches high, so the variance number one would be to have the height of the signage increased by six inches and one half of a foot and 2 1/2 feet to 3 feet. Again, your length is 10 feet, we're far less than that, we're only 7 feet in length. So we really have a total of 21 square feet of signage on this particular sign. Again, the ordinance allows 2 1/2 feet by 10 feet. So we're under the area. We just need a variance for the height. The second sign, the second variance that we're asking for is for a second facade sign which would be on the opposite side of the building and that also would be 3 feet by 7 feet. Again, one sign would be on this side, the other sign would be on this side

of the building, this is Windsor Highway, this is the front of the building and that sign would also be for dimensions of 3 feet by 7 feet so we'd be asking for that variance and that variance would be inclusive of really two parts, one, the fact that there's a second sign and two, that the sign again is 3 feet high, six inches in excess of that which is permitted by zoning. And the final variance is for the freestanding sign which would be sitting on the ground. Again, I have passed the handout for you, the requested variance is quite substantial, that's because the rejection from the building inspector not only incorporates the area around the word Arby's and the reader board which is 3 feet by 6 feet, but also the entire brickwork, the entire structure. So it's quite substantial, at least in number, but the reality is we're just looking to build this. And again, with the Arby's sign being the maximum dimensions of 8 feet by 6 feet two sides and the reader board being 3 feet by 6 feet two sides so that's the summary of the three variances that we're requesting from the board on this application.

MR. TORLEY: I see by your handout that Arby's does have official lettering that's 30 inches high?

MR. SHAW: Yes.

MR. TORLEY: Okay, if our sign requirement says 30 inches, why don't you just use the corporately approved 30 inch high sign?

MR. SHAW: Because we feel that in order to market the building properly, we need a variance of six inches, that's really the purpose of this board is to consider requests in excess of the zoning ordinance.

MR. REIS: Greg, can you speak to where the sign is physically going to be? I'm talking about the freestanding sign now.

MR. SHAW: Freestanding sign is going to be in this area right here, in this grassy land between the entrance of the parking area substantially removed, not substantially, just out of the easement for the existing water main which is located along the frontage

of our property would be located in this location.

MR. REIS: Consideration was taken for ingress-egress?

MR. SHAW: Absolutely, we want to make sure they have maximum sight distance, that it doesn't affect that.

MR. TORLEY: How far from the road edge?

MR. SHAW: From the road edge, 40 feet.

MR. TORLEY: Have we had any other signs like this? I don't recall a solid foundation sign. Looks nice.

MR. BABCOCK: Yeah, it does look nice. No, actually, in the past, we've had some not quite solid foundations but we've had signs that were just letters and we have incorporated a square medium around the letters to make up the thing. As you can see, Arby's is not, I don't know if Arby's is just a big R or an arch or if it's solid but it appears that it is not and we took that whole 6 x 8 into account also so there's a big difference, I mean, if you take actually the sign it's really only 132 square feet and we're calling it 209 because we're taking in the entire structure.

MR. MC DONALD: Whole brickwork and everything?

MR. BABCOCK: Yes, it's part of the sign and we can change that.

MR. TORLEY: No, I mean, we'll make a routine out of it, even at the 132 square feet, you still have to be here.

MR. BABCOCK: Right.

MR. TORLEY: Now and there would be no, if there was no sign, just the wall.

MR. SHAW: I already had that conversation.

MR. TORLEY: Just the wall, there'd be no violations, the wall is perfectly legal.

MR. BABCOCK: Yes.

MR. REIS: Greg, can you tell us the structure, what appears to be like this sloppy looking M, is this a solid background or is it open?

MR. SHAW: I would have to ask.

MR. TORLEY: At the public hearing, you can.

MR. SHAW: It's solid. The best I can determine if you were to box out just the area around the hat, it's about 40 square feet.

MR. TORLEY: And then the header board. I was just concerned about the site lines but if it's 40 feet back from the road.

MR. SHAW: Yes.

MR. TORLEY: Internally illuminated, not flashing?

MR. SHAW: Correct.

MR. TORLEY: Gentlemen, any other questions at this time?

MR. MC DONALD: No.

MR. RIVERA: No.

MR. TORLEY: Anyone have a motion?

MR. REIS: Accept a motion?

MR. TORLEY: Yes.

MR. REIS: I make a motion that we set up Route 32 N.W. Realty, New Windsor Realty, LLC for the requested variances for their freestanding sign and their two wall signs.

MR. MC DONALD: Second it.

ROLL CALL

January 27, 2003

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MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. TORLEY	AYE

MR. SHAW: Thank you.



ANTHONY FAYO - (03-02)

Mr. Fred Fayó appeared before the board for this proposal.

MR. TORLEY: Request for 25' maximum lot width to construct a single-family home in an R-1 zone on Bull Road. For your benefit and the others as well, we have these preliminary meetings because by law, everything the zoning board does has to be done after a public hearing, we have these preliminary meetings since most people do this once in their lives so that you have an idea what we're going to be asking at a public hearing, the kind of questions we'll have, we'll have a better feeling of what you're asking for so nobody gets surprised. So in that light, what is it you want to do?

MR. FAYO: I want to build a single family dwelling on that lot, I think it's 100 foot road frontage and we need 175 foot variance.

MR. BABCOCK: No, it's 100 foot, you have a little over, according to the tax map, a little over 100 foot lot width, the requirement by law today is 125 feet, so they need a 25 foot lot width. It's a 4.8 acre lot, it's just 100 feet long and quite deep.

MR. TORLEY: About a mile deep.

MR. REIS: Mr. Chairman, can I interrupt? I'm involved with the sale of the property but I'd like to be able to comment on it, if necessary.

MR. TORLEY: When we do the public hearing, if you're going to abstain from the voting, it might be better format if you're going to question or make statements, maybe you better do that for the audience at the public hearing, just to make everybody happier. I appreciate it, you're always very good about informing us of any even possible conflicts so I'm not worried about that, just a procedural thing. So when this lot was created, it was legal?

MR. BABCOCK: That's correct.

MR. MC DONALD: Just a change in the zoning?

MR. BABCOCK: Yes.

MR. TORLEY: Be real easy to plow that.

MR. FAYO: One shot through.

MR. TORLEY: Some of the things we'll be asking, this is an area variance you're asking for, so we have to balance the benefit you would receive from getting the variance versus any potential harm to the neighbors or community in general. So when you build this house, you'll be asked at the public hearing will you be changing any drainage patterns?

MR. FAYO: No.

MR. TORLEY: You're not, are you building over any sewer easements or water easements? There aren't any.

MR. FAYO: No.

MR. MC DONALD: Cutting down any trees?

MR. FAYO: It's a brushy lot, just what's needed to build the structure and the road.

MR. REIS: Just for the record, there's probably a dozen lots very much like this along that strip.

MR. TORLEY: I think most of them are built on.

MR. FAYO: About half of them are built on.

MR. TORLEY: It's a very unusually shaped lot.

MR. MC DONALD: According to the tax map, looks like you've got--

MR. FAYO: I think it's 1,900 feet deep.

MR. MC DONALD: 2172 feet deep.

MR. TORLEY: And this will be because of the width of this lot, you're going, this will remain a single lot, you're not going to subdivide it?

MR. FAYO: No.

MR. TORLEY: You'll be asked that again for the record at the public hearing. Gentlemen, anybody else have anything they want to ask?

MR. RIVERA: Accept a motion?

MR. TORLEY: Yes.

MR. RIVERA: Make a motion we set up Mr. Anthony Fayo for a variance to construct a single family home on Bull Road.

MR. MC DONALD: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. TORLEY	AYE

FIDANZA, FRANCO (PLANET WINGS) (03-03)

Mr. Carmine Rotundo appeared before the board for this proposal.

MR. TORLEY: Request for 146 sq. ft. and 3' height for freestanding sign; request for 3.5 ft. x 12 ft. for wall signs in a C zone on Windsor Highway.

MR. ROTUNDO: We've got pictures of the existing sign and what we want and then do you have a copy of the application?

MR. TORLEY: It's in here someplace.

MS. MASON: I have the application.

MR. TORLEY: Here you go.

MR. ROTUNDO: I'm kind of jumping into this, the square footage on the proposed pylon should be 108, I don't know what he wrote down.

MR. TORLEY: Showing here as 210.

MR. ROTUNDO: It's 108 from one side.

MR. TORLEY: We do both sides.

MR. ROTUNDO: Okay.

MR. TORLEY: Now, according to this, it's the sign itself is 81 inches high and 12 feet long and there's a reader board of two feet by 24.

MR. ROTUNDO: That's 3 feet by 8 feet.

MR. TORLEY: 3 x 8?

MR. ROTUNDO: Yes.

MR. TORLEY: Both sides you have 162 square feet of the sign and 48 square feet of the reader board or 210 feet total?

MR. ROTUNDO: Yes.

MR. MC DONALD: Is this sign existing?

MR. ROTUNDO: Yes, it is. The sign that's existing is 312 square feet, we want to go from that 312 square foot down to 210 square foot and I got a nice colored picture of the proposed new one so cause the top of this building has that arc, you know, and you kind of want to match the building and it looks a lot better than this one here.

MR. TORLEY: And you're actually bringing it closer to the zoning code by this change.

MR. ROTUNDO: Yes, basically, and this whole sign here lights, this is not going to lit, the whole background, the only thing that's going to be lit are the letters, they're going to be like a channel letter so it's going to look really classy.

MR. TORLEY: It's going in the same physical place?

MR. ROTUNDO: Yes, we're going to wrap the poles, you know, so they look--

MR. TORLEY: Not flashing lights?

MR. ROTUNDO: No flashing lights. Well, there's neon inside of it and we plan on wrapping the top of it like right here putting the strip of neon here, it's not flashing or anything.

MR. TORLEY: Just a border light?

MR. ROTUNDO: Yeah, exactly.

MR. TORLEY: As long as it's not flashing.

MR. ROTUNDO: The top of the sign is actually going to come out, it's just like an accent.

MR. TORLEY: It will match the architecture of the building?

MR. ROTUNDO: Yes.

MR. TORLEY: That's the freestanding sign?

MR. ROTUNDO: Yeah, freestanding.

MR. TORLEY: What about the wall sign?

MR. ROTUNDO: Well, the sign we're proposing, we have this on all his stores, it's a channel letter, his logo in the middle.

MR. TORLEY: And it's 22 feet by 6 feet?

MR. ROTUNDO: That's the whole overall building dimension 6 foot by 43 inches.

MR. TORLEY: That's the rooster, the rest of the channel wings?

MR. ROTUNDO: No, that's the overall building size.

MR. TORLEY: That picture shows the rooster and Planet Wings on either side so the dimensions where it goes from the P to the S, how far is that? See that's where, Mike, I assume you're using for the sign dimensions?

MR. BABCOCK: That's correct.

MR. ROTUNDO: You should have an overall there.

MR. TORLEY: That's where you came up with the 12 foot?

MR. BABCOCK: Yes.

MR. ROTUNDO: Cause we're proposing another sign on the other side of the building with just the chicken, I think that's the application you got for that, that's the other side of the building, there should be another.

MR. TORLEY: So you've got one sign that's 12 foot long and 3 1/2 feet high that says Planet Wings with a chicken in the middle, is that what the dimension was?

MR. BABCOCK: Well, we're taking that whole area which is, it says Planet Wings on each side of the chicken.

MR. TORLEY: But you're taking the whole sign, not just the lettering part of it?

MR. BABCOCK: That's correct. Well, that's what he gave us.

MR. TORLEY: Yes, that's what I'm looking at here so if--

MR. BABCOCK: It's substantially smaller in square footage than what we're giving you except we're taking the entire border from the highest point to the longest point.

MR. TORLEY: That's routine.

MR. BABCOCK: Yes.

MR. TORLEY: When you coming back for the public hearing, give me the dimensions of actually where the lettering would be.

MR. ROTUNDO: So you want an overall square?

MR. TORLEY: Mike's got the overall square.

MR. ROTUNDO: I have that, the word planet is 16 inches by 81 inches, the word wings is 16 inches by 71 inches.

MR. TORLEY: So we're looking at 152 plus.

MR. ROTUNDO: Then you got 39 inches or 43.

MR. TORLEY: 192 inches, okay.

MR. ROTUNDO: So--

MR. TORLEY: I wish we went to the metric system.

MR. ROTUNDO: You want the overall length by the overall width?

MR. TORLEY: You give him a sign, he takes the whole sign as the area but actually most of it--

MR. ROTUNDO: Is in the middle, so that's not really fair square footage wise.

MR. TORLEY: You can ask for that variance but by having this in the variance it says you're asking for a variance by this sign but actually only filling up this part of it.

MR. ROTUNDO: Yeah because that square footage would be a considerable amount of footage.

MR. TORLEY: The other sign you're only allowed one wall sign, he's asking for two, the second wall sign is just a chicken.

MR. BABCOCK: I don't even think we have that in our paperwork.

MR. ROTUNDO: We didn't need a variance for that, so I believe that that was just part of the--

MR. BABCOCK: Actually, you would, I'm not sure why they didn't.

MR. TORLEY: If it's just a logo, does it count as a sign?

MR. BABCOCK: Well, it's the board's discretion.

MR. TORLEY: I'm trying to remember in the past, we want to maintain a consistency here.

MR. BABCOCK: Since he's here, I would strongly suggest that we add it as the second sign and the size of it, this way there's never a question.

MR. TORLEY: Since it's just a chicken, let's--

MR. BABCOCK: We'll do it 6 foot by 43 inches.

MR. ROTUNDO: Okay, now, apparently, in your code book,



aren't you allowed a second sign up to a certain square footage, I believe it was 25 or something? Is that true?

MR. TORLEY: One wall sign and one facade sign and one freestanding sign, you can have other signs for like directional, traffic directions and things like that, so we'll amend the variance request for that extra sign.

MR. ROTUNDO: So we have it down at 6 foot by 43 inches.

MR. TORLEY: Chicken is not 6 feet high.

MR. BABCOCK: Yeah, it's 6 foot high by 43 inches wide.

MR. TORLEY: That's a sign? I thought it was something like that.

MR. BABCOCK: No, that's why I figured if he's here, he should be asking for it.

MR. ROTUNDO: It's less than 25 square feet.

MR. BABCOCK: I don't have any problem with it myself, it's just--

MR. TORLEY: We can amend the variance request for that.

MR. REIS: Accept a motion?

MR. MC DONALD: Second is going to be the chicken?

MR. ROTUNDO: Yes, I guess we're after three signs here, pylon, the chicken and the front sign.

MR. TORLEY: I'm appreciative of the fact that the pylon sign is being reduced from the existing sign and it looks nice.

MR. REIS: Accept a motion?

MR. TORLEY: Unless somebody else has any other

questions.

MR. RIVERA: How many entrances to the building?

MR. ROTUNDO: How many entrances, I believe there's 3, 3 entrances to your building.

MR. ROTUNDO: One in, one out, goes out the building and out the other side.

MR. BABCOCK: Really just one, it's one in and one out.

MR. TORLEY: Gentlemen, if there are no other questions, I'll accept a motion.

MR. REIS: Make a motion that we set up Franco Fidanza (Planet Wings) for the requested variances for the freestanding and the two wall signs.

MR. MC DONALD: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. TORLEY	AYE

JOHN BENICHIASA (03-04)

MR. TORLEY: Request for use variance to operate an existing machine shop in an R-4 zone on Garden Drive.

Mr. John Benichiasa appeared before the board for this proposal.

MR. REIS: For the record, it's a little far removed but to avoid any potential observation that someone might have for a conflict of interest, I was involved with the sale of this property with his dad several years ago, just for the record.

MR. TORLEY: Always been a stickler for that, I appreciate it. So you have a machine shop?

MR. BENICHIASA: Yes.

MR. TORLEY: Is it pre-existing zoning?

MR. BENICHIASA: No.

MR. TORLEY: What's the deal?

MR. BABCOCK: I'm not sure what the, I guess we got a complaint, apparently I'm hearing both sides of the story that there's somebody that likes to do a lot of complaining in the area, they made a complaint and one of the fire inspectors went down and visited this gentleman and I didn't see it personally but I understand it's a one man workshop type thing that he has in his, they told me garage, right?

MR. BENICHIASA: Right, I believe I gave Myra the pictures.

MR. TORLEY: So you have a two car garage and there's a machine shop in it?

MR. BENICHIASA: One car garage, it's 35 feet long all the way in the back of the house.

MR. MC DONALD: Do you have any commercial traffic coming in there?

MR. BENICHIASA: No, no, occasional delivery of steel by the U.S. Air Force.

MR. MC DONALD: For you?

MR. BENICHIASA: Yeah but they're out within five minutes. Everything else is UPS.

MR. TORLEY: Now, a machine shop is not permitted in an R-4 zone?

MR. BABCOCK: That's where the problem is.

MR. TORLEY: When they think of machine shops, they think of this, looks like something fitting in somebody's garage.

MR. BENICHIASA: If you came down to look at it, it's like a two car garage but it does small, minute work for the U.S. Government which I'm doing now.

MR. TORLEY: Federal contract, does that make any difference?

MR. BABCOCK: I don't think it makes any difference to me. It may make a difference to you.

MR. TORLEY: I'm thinking of the code if it's Federal.

MR. BABCOCK: Well, I didn't know if that's inclusive of just that, I mean if that's--

MR. TORLEY: See, the trouble is by state law, there are two kinds of variances, area variances which we have been talking about till now and use variance. Use variance says you want to do something the law says you just flat out can't do in the zone and the state legislature has made getting use variances very difficult because you have to, and our attorney can give you the list of what the criteria you have to meet, one of the biggest hurdles is you have to show for the property you have you cannot get a reasonable return, not profit, just reasonable return for any legal use in the zone. You have to show you can't sell

your house as a house in this zone and only if you can't get a reasonable return for anything in that zone.

MR. BENICHIASA: You lost me.

MR. TORLEY: For a use variance you may wish to consult an attorney.

MR. BENICHIASA: But why?

MR. TORLEY: Because it gets tough.

MR. BENICHIASA: Attorneys cost money.

MR. TORLEY: The hurdles you have to get over to get a use variance are pretty, are not impossible but they're pretty close and I hate to, you know, do something, the guy's got a machine shop in his garage.

MR. BENICHIASA: It's not in the garage, it's in the basement and all it is is a low profile that does precision work for the U.S. Government. I'm doing it now, but I had to put a stop since the fire guy came and that's the only thing, somebody told me go to the city and get a permit. I could have been going on for 20 years and not tell you. I came to Debbie Green and said I want to do everything legally.

MR. TORLEY: If somebody complained, the fire inspector came out and saw it, then the Town is now aware of it.

MR. BENICHIASA: Right, I understand, but the complaint was two days after, I went to see Debbie Green to go to Myra and get all the paperwork. When he wants things done, this guy is a pain in the butt, when he wants things done, he's right over there welding any type of little things and whatever, he's happy, but as soon as I went public, he didn't like it. I keep it copacetic with all the neighbors, he just decided if my son can't get a permit three years ago to get a used car lot, I'm gonna get even with, I'm gonna make my son feel better by making John Benichiasa not get a variance. And the name Ray Werk (phonetic) is synonymous with all the police officer, everyone has paid a visit to him twice.

MR. TORLEY: We can't get into personalities, we have to go by what the state law says we have to do and the state made getting use variances tough. I'm trying to figure how we can do this.

MR. BENICHIASA: Also, if you read about the article in the Newsweek magazine, Pataki's trying to loosen up so small businesses can get started.

MR. TORLEY: This is a classic conflict here.

MR. MC DONALD: One man shop?

MR. BENICHIASA: That's all it is.

MR. RIVERA: If it was a hobby shop, would it be a difference?

MR. BENICHIASA: It was a hobby shop in 1986 when my father had it built and we would tinker, invent things, fix things for neighbors, just be handy. But now the U.S. Government has got a problem, they haven't got any machinists in the work force that can do this work, so about a year ago, they came to me which I have been paying taxes and I've got a \$6,000 bill being paid tomorrow to FICA and state tax and I'm paying it tomorrow, I'm generating money, the thing is, like I said, it's turned out to be a hobby shop and about a year ago, they came to me, they had a problem, all of these people retiring but 20 years ago, 10 years ago, no kids wanted to get educated to replace being a machinist, they're becoming very hard to find. Matter of fact, if you look, there's four shops that closed down within 30 miles of New Windsor because all of these guys retired, but there's no kid who wants to get in there to get their hands dirty. It's a lost art. I happen to be doing it for 40 years and I'm 50 years old.

MR. TORLEY: So the problem is we have to go by state law.

MR. BENICHIASA: Seriously, I intend on being out of there within a year and a half, I was offered a

building on Bridge Street but it won't be open for about a year, he's moving on to other things and the building's being offered to me.

MR. TORLEY: Andy, does that make a difference if you can apply this as for a transition period, that's essentially what it is. I'm not going to ask you to say anything now, think about that or check it out because there's a condition where you have a violation sort of in transition, he'd going to be moving out, a temporary permit or something like that, I don't know if that's in our purview, but it's something to think about. What I would suggest is I would happily entertain a motion, unless you have other questions you want to ask, entertain a motion that will give you the right to go forward. We set you up for a public hearing, says you're entitled but you don't have to do it if you figure out something else. You're entitled to a public hearing and check with Andy.

MR. REIS: How much time can lapse between now and the potential public hearing?

MR. TORLEY: There's no set rule.

MR. BABCOCK: The problem is that we're talking about this order for him not to use his facility.

MR. MC DONALD: You can't use it.

MR. BENICHIASA: I'm in a standstill.

MR. TORLEY: If he's applying for a variance to do something, isn't that order stayed?

MR. BABCOCK: Well, the judge would make that decision as Andy would say.

MR. TORLEY: Judge already ruled on this.

MR. BABCOCK: Right, but what we're telling him is that he can't operate his business until you guys make a determination. So if he starts to operate his business and we get another complaint, we'll be down to see him and he'll go in front of the judge, the judge may say

to him which very well Andy will probably agree or disagree with me that if you're in front of the zoning board, continue and come back and see me in 30 days, how long is it gonna take and then it will go on for until the zoning board makes a decision, but I don't think anybody, the problem is with the complaint on file, if there was no complaint on file, I think I would agree. I've got to be honest, I wouldn't even of known it.

MR. BENICHIASA: I intended on going for this even without the complaint.

MR. TORLEY: You're right to do the right thing.

MR. BENICHIASA: That's what I'm doing.

MR. TORLEY: So what I would suggest then we set up the applicant for a public hearing on the use variance and see unless you want to do another preliminary.

MR. MC DONALD: No, let's set him up.

MR. TORLEY: No, just off the top of my head, feel free to disagree, if we set him up for another preliminary meeting next time, may give Andy a chance to think about this and maybe some way we can work around this and help the gentlemen.

MR. KRIEGER: Yeah, but the problem is that he's stopped now and he wants to start again. So if we, if the zoning board takes a deliberate pace in considering this application, this gentleman is held up for all that time, it would be one thing if he was actually operating and the zoning board was deliberating in its approach.

MR. BENICHIASA: I've got work downstairs now pending delivery in two weeks.

MR. TORLEY: Just don't say anything. Now, if the gentleman, if we set him up for another public, he's before the zoning board and we're in the process of the deliberations and considering the case.



MR. BABCOCK: I think that you should, I personally think we should go with a public hearing, see what happens with that, that's gonna help this gentleman I think in a lot of ways to make a determination on this thing and maybe depending on that outcome, maybe you would table it for a week until you get some better stuff.

MR. REIS: Accept a motion?

MR. TORLEY: Absolutely.

MR. BENICHIASA: I didn't understand a word you guys said.

MR. TORLEY: We're trying to help you.

MR. REIS: Make a motion we set up Mr. John Benichiasa for his requested variance at Garden Drive.

MR. MC DONALD: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. TORLEY	AYE

MR. BENICHIASA: Does that mean you're going to come out and see what I do?

MR. TORLEY: Off the record.

(Discussion was held off the record)

MR. TORLEY: Do I have a motion?

MR. REIS: Motion has been made.

MR. MC DONALD: Second it.

ROLL CALL

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MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. TORLEY	AYE

MR. TORLEY: Just see Myra tomorrow about getting some of the paperwork. We'll see what we can do and when you set up the public hearing, depends on how fast.

MS. MASON: You don't have to do anything.

MR. TORLEY: He's all set.

MR. KRIEGER: Here are the criteria for the use variance.

MR. TORLEY: You're all set for tonight.

FORMAL DECISIONS

1. NEUMANN, PAUL
2. POST, WILLIA
3. MODH, PARESH
4. CUBITO, ROSEANN
5. YARUS, ANN
6. HARDEN, GREGORY
7. CHIN, NEA
8. ACCETTURA, JOSEPH

MR. TORLEY: Formal decisions, what's your pleasure?

MR. REIS: Make a motion that we accept in block form the formal decisions.

MR. MC DONALD: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. TORLEY	AYE

MR. TORLEY: Motion to adjourn.

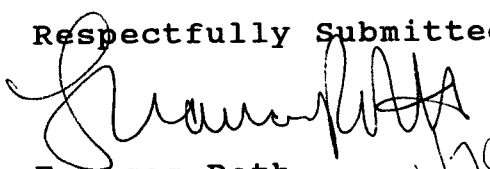
MR. REIS: So moved.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MC DONALD	AYE
MR. REIS	AYE
MR. TORLEY	AYE

Respectfully Submitted By:

  
Frances Roth  
Stenographer

1/28/03